

## **Remarks**

Reconsideration of the instant application is respectfully requested in light of the above-amendments and following remarks.

### **I. STATUS OF THE CLAIMS**

Claims 1-5, and 7-14 are pending. Claim 1 has been amended for the purpose of clarity. Support for such amendment can be found, for example, in the figures. No new matter has been added.

### **II. DOUBLE PATENTING**

The Examiner rejected claims 1-5 and 8-14 under the judicially created doctrine of obviousness-type double patenting in light of U.S. Patent No. 6,719,740, further indicating that such rejection may be overcome by filing an appropriate terminal disclaimer.

In response, although applicants do not necessarily agree with the Examiner's rejection, applicants have submitted herewith a terminal disclaimer. Therefore, the rejection is overcome and should be withdrawn.

### **III. THE CLAIMED INVENTION IS PATENTABLE OVER VERDICCHIO**

The Examiner rejected claims 1-3 and 7-11 under 35 U.S.C. 102(e)<sup>1</sup> as being anticipated by Verdicchio et al (U.S. Pat. No. 6,156,323).

Applicants respectfully submit that Verdicchio is not properly cited to anticipate the claimed invention, because such reference fails to teach or suggest each and every limitation of the claimed invention. In particular, applicants note that Verdicchio provides no specific teaching or suggestion to form a pouch having an apertured film layer wherein the protuberances of the aperture film "extend toward said pouch." Rather, the only teaching of orientation of a film layer in Verdicchio is in Example 4 wherein the apertured film is placed on the pouch backing "sleeve side up" to form the Verdicchio pouch. As will be recognized by those of skill

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<sup>1</sup> Applicants respectfully do not necessarily agree that this document is properly cited as prior art and hereby reserve the right to swear behind such reference.

in the art, such orientation places the aperture protuberances extending *away* from the pouch, as opposed to the currently claimed requirements. Thus, Verdicchio clearly fails to teach or suggest each and every limitation of the claims, and instead tends to teach and suggest away from the claimed invention. The Examiner's rejections should thus be withdrawn.

#### IV. CONCLUSION

Reconsideration of the instant application is respectfully requested. An early and favorable response is earnestly solicited.

Respectfully submitted,

/Brett T. Freeman/

Brett T. Freeman

Reg. No. 46,709

Attorney for Applicant(s)

Johnson & Johnson  
One Johnson & Johnson Plaza  
New Brunswick, NJ 08933-7003  
(732) 524-3428  
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